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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,573

10/20/2003

Robert M. Zeidman

ZEID-01

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EXAMINER

WANG, BEN C

ART UNIT

PAPER NUMBER

2192

MAIL DATE

DELIVERY MODE

08/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/688,573	Applicant(s) ZEIDMAN, ROBERT M.	
	Examiner BEN C. WANG	Art Unit 2192	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 3-7, 15, 17-22, and 24-28 - Examiner maintains the same 103(a) rejections.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Michael J. Yigdall/
 Primary Examiner, Art Unit 2192

/Ben C Wang/
 Examiner, Art Unit 2192

Continuation of 11. does NOT place the application in condition for allowance because:

Response to Arguments

Applicant's arguments filed on March 23, 2009 responding to the Final Office action mailed February 19, 2009 have been fully considered but they are not persuasive.

In the remarks, Applicant argues that, for examples:

(A.1) Applicant presented clear evidence that the present application is a continuation-in-part patent application claiming priority to U.S. Patent Application Serial No. 09/309,147; filed May 10, 1999 by the same inventor, Robert Zeidman, as the present application (recited on page 9, third paragraph through page 11, first full paragraph - emphasis added)

(A.2) The applicant has added new claims 29-34 by this Amendment. These new claims are not anticipated or rendered obvious by the art currently of record for the reasons set forth in prior amendments with respect to claims 1, 15, and 22 (recited on page 11, last paragraph - emphasis added)

Examiner's response:

(R.1) As to A.1, firstly, Examiner acknowledges the priority claim made in the present application which is a continuation-in-part patent application to its parent application (S/N 09/309,147) and has since issued as U.S. Patent Number 6,934,947 B1 (hereinafter '947 - the parent application). Further, the present pending application has since issued as U.S. Pre-Grant Publication US 2005/0086030 A1 (hereinafter '030 - the pending application)

Secondly, Examiner uses '947, filed May 10, 1999, to validate whether the claim limitations as a whole argued by Applicant are fully covered by '947. '947 does not disclose other limitations of the claim 1 stated below as amended dated December 8, 2009:

- specifying a set of n tasks, task(1) through task(n), to be scheduled for execution, each task having an associated task control block;

- manipulating task control blocks for said set of t init-tasks;
- specifying a scheduling algorithm for scheduling the execution of said set of n tasks;
- using said scheduling algorithm for controlling execution of said set of n tasks

Thirdly, as shown in above bullets, '947 DOES NOT FULLY DISCLOSE the claim limitation of the claim 1 AS A WHOLE. '947 does not cover the claim limitations such as "Task Context Block (TCB)", "scheduling algorithms" etc.

Fourthly, '030 specifically discloses TCB process in figures 10, 11 and paragraphs [0047] through [0048] and scheduling algorithms in paragraph [0051] respectively. Such disclosure is absent from '947.

Thus, the effective filing date of claims 1, 15, and 22 is October 20, 2003.

Lastly, the prior art references for Gauthier and Liu are still valid for the Final Office action mailed February 19, 2009.

(R.2) As to A.2, Applicant argued these new claims are not anticipated or rendered obvious by the art currently of record. Therefore, new claims 29-34 raise new issues that would require further consideration of the applied prior art and/or additional search in order to fairly determine the patentability of the proposed new claims